

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-5042

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FABRICE SNOWDEN,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Catherine C. Blake, District Judge. (1:07-cr-00100-CCB)

Submitted: July 22, 2008

Decided: July 30, 2008

Before WILKINSON and GREGORY, Circuit Judges, and WILKINS, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

James Wyda, Federal Public Defender, Denise C. Barrett, Assistant Federal Public Defender, Baltimore, Maryland, for Appellant. Rod J. Rosenstein, United States Attorney, Kwame J. Manley, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Fabrice Snowden pled guilty to sexually exploiting his daughter for the purpose of producing child pornography, in violation of 18 U.S.C.A. § 2251(a) (West Supp. 2008). The district court imposed sentencing enhancements after making factual findings based upon a preponderance of the evidence and sentenced Snowden to a 360-month term of imprisonment, the bottom of the advisory guideline range. On appeal, Snowden contends that the district court's use of the preponderance of the evidence standard to find that he intended to distribute child pornography and engaged in a pattern of prohibited conduct violated the Due Process Clause of the Fifth Amendment. We reject his claim. See United States v. Grier, 475 F.3d 556, 565-66 (3d Cir.) (en banc) (holding that "[t]he Due Process Clause . . . affords no right to have the[] facts [relevant to sentencing enhancements] proved beyond a reasonable doubt" and collecting cases adopting rule), cert. denied, 128 S. Ct. 106 (2007).

Accordingly, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED